IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO.980 OF 2004

The Commissioner of Income Tax .. Appellant.

V/s.

Sahakar Maharshi S.M.Patil SSK Ltd. .. Respondent.

Mr.B.M. Chatterjee with Mrs.P.P. Bhosale i/by Pankaj Kapoor for the appellant.

Mr.S.N. Inamdar with Mr.A.K. Jasani for the respondent.

CORAM : F.I. REBELLO &
J.P. DEVADHAR, JJ.

DATED : 16TH JULY, 2007.

P.C. :

1. Admit. Heard forthwith.

2. The issue in this appeal is covered by the judgment of the Supreme Court in the case of Siddheshwar Sahakari Sakhar Karkhana Limited V/s. CIT and CIT V/s. Shri Chatrapati Sahakari Sakhar Karkhana Limited reported in [2004] 270 ITR 1 (SC) as followed by this Court in the case of CIT V/s. Malegaon Sahakari Sakhar Karkhana Limited reported in [2005] 279 ITR 19 (Bom).

3. The question of law as formulated in this appeal reads as under :

Whether on the facts and in the circumstances of the case and in law, the Tribunal is right in upholding order of CIT (Appeal) deleting the additions made by the assessing officer in respect of the following items, which are trading receipts being collections/ recoveries out of sugar cane price payable to cane growers :

a]	Earthquake fund	Rs. 4,006/-
b]	Cane development fund	Rs.10,74,995/-
c]	Area development fund	Rs.3,41,934/-

4. In view of the aforesaid judgments, insofar as item No.b and c are concerned, the appeal is remanded back to the Tribunal for denovo consideration in accordance with law.

4. Insofar as item Nos.a is concerned, they are to be treated as ‘not income in the hands of the assessee’.

5. Impugnmed order, to that extent, is set aside. The appeal is partly allowed. There shall be no order as to costs.

(F.I. REBELLO, J.)

(J.P. DEVADHAR, J.)